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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/727,154	12/02/2003	Kenneth A. Vlazny	3127-6066US	5283	
24247	7590	08/12/2008	EXAMINER		
TRASK BRITT		RADA, ALEX P			
P.O. BOX 2550		ART UNIT		PAPER NUMBER	
SALT LAKE CITY, UT 84110		3714			
		NOTIFICATION DATE		DELIVERY MODE	
		08/12/2008		ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTOMail@traskbritt.com

Office Action Summary	Application No.	Applicant(s)	
	10/727,154	VLAZNY ET AL.	
	Examiner	Art Unit	
	ALEX P. RADA	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 May 2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 26-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 26-39 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/22/08</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

In response to the amendment filed May 22, 2008 wherein applicant submits amendments to the specification, abstract, amends claims 26, 29-31, 36-38 and claims 26-39 are pending in this application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 26-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner et al. (US 6,554,709) in view of Design Choice.

Regarding claim 26, Brenner discloses a method of conducting a pari-mutuel gaming activity the method comprising providing at least one patron an opportunity to place at least one first wager on a race; and response to the at least one patron placing the at least one first wager, providing the at least one patron with an opportunity to place at least one second wager on the race. Fig. 3 of Brenner discloses allowing a player to place a wager by selecting a wager amount, type, and a runner in steps 214,230 and 244. A player may then place an additional bet on the same race, as shown in step 258, wherein they again select a wager amount, type, and runner for said second wager. *Figs. 16 and 17 show a displaying at least one indicia of a wager selected by the at least one patron.*

Regarding claim 27, Fig. 3 of Brenner discloses the at least one second wager includes at least one runner of the at least one first wager in the Duplicate a Wager option of step **260**.

Regarding claim 28, the at least one second wager is not related to the at least one first wager if the player chooses the option More Bets Other Race in step **258**.

Regarding claim 29, Brenner discloses providing the at least one patron an opportunity to select at least another runner, wherein the at least another runner makes up a portion of the at least one second wager (Figs. 3 and 8-17, Select Runner step **244**, wherein placing a wager comprises the selection of multiple components including a wager amount, wager type, and a runner).

Regarding claim 30, presenting the at least one patron with the second opportunity to place the at least one second wager comprises generating a pool of wager options including the at least one first runner and at least one second runner, and displaying the pool of wager options to the at least one patron. That is, Fig. 3 shows that a player may choose Select Runner when placing a second wager in step **230**. Further, Fig. 15 discloses displaying the pool of wager options including the first runner and at least one second runner, wherein the player may select horses 1-9.

Regarding claim 31, Brenner discloses marking an area of the displayed pool of wager options representing the at least one first runner (Fig. 15, shaded area representing selected Horse #2).

Regarding claim 32, Brenner discloses displaying tote data in conjunction with at least one of the at least one first wager and the at least one second wager (Fig. 15, Odds column displayed in left-hand side of the screen showing the current odds associated with each runner). Further, Figs. 4 and 18-19 disclose displaying tote data, i.e. pool totals and probable payoffs.

Regarding claim 33, Brenner discloses a system for conducting a pari-mutuel gaming activity, the system comprising a display element for displaying information associated with a gaming activity,

an input device for interacting with at least one patron, a computer configured with software enabled to conduct the gaming activity wherein a patron is provided with an opportunity to place at least one first wager on a race displayed on the display element, the at least one patron is presented with an opportunity to place at least one second wager on the race with the input device (User Terminal, Figs. 2-17).

Regarding claim 34, Brenner discloses the at least one second wager includes at least one runner of the at least one first wager (Fig. 3, Duplicate a Wager option in step **260**).

Regarding claim 35, Brenner discloses the at least one second wager is not related to the at least one first wager (Fig. 3, More Bets Other Race option in step **258**).

Brenner is silent in regards to placing at least one first wager and then placing a second wager. However, Brenner does disclose placing at least one or more bets for at least one or more races and then submitting all of the bets as one wager. At the time the invention was made, it would have been an obvious design choice to a person of ordinary skill in the art to at least one first wager and then placing a second wager because Applicant has not disclosed that placing at least one first wager and then placing a second wager provides an advantage or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with placing a wager as disclosed by Brenner because they both provide the same outcome of providing a patron to place a bet/wager on a race.

Response to Arguments

3. Applicant's arguments filed 22 May 2008 have been fully considered but they are not persuasive.

Applicant contends that Brenner does not disclose placing at least one first wager and then placing a second wager.

The examiner respectfully disagrees. The words Bet and Wager are interchangeable within the art. Brenner discloses a patron placing a first bet/wager on at least one horse race and then the patron has the opportunity to place another bet/wager on the same race or on a different race. Once the bets/wagers are finished the Patron submits the bet/wagers. Before a Patron can place a second bet/wager, a first bet/wager has to be placed. Brenner discloses placing one or more bets/wagers on horse racing and the results of the one or more bets/wagers are displayed of the Patron's display screen. The only difference between the claimed invention and the cited prior art is the method upon which a bet/wager is placed. As noted above, it would have been an obvious design choice to a person of ordinary skill in the art to place at least one first wager and then placing a second wager because Applicant has not disclosed that placing at least one first wager and then placing a second wager provides an advantage or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with placing a wager as disclosed by Brenner because they both provide the same outcome of providing a patron the ability to place at least one or more bets/wagers on a race. Giving a claim its broadest reasonable interpretation, Brenner discloses a patron placing at least one first wager on a race, providing the opportunity to place at least a second wager on the race.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEX P. RADA whose telephone number is (571)272-4452. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like

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assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/
Supervisory Patent Examiner, Art Unit 3714

/A. P. R./
Examiner, Art Unit 3714